

SENATE RECORD VOTE ANALYSIS

104th Congress
2nd Session

Vote No. 65

April 17, 1996, 12:29 p.m.
Page S-3438 Temp. Record

TERRORISM PREVENTION CONFERENCE/Multi-Point Wiretap Authority

SUBJECT: Conference report to accompany the Antiterrorism and Effective Death Penalty Act of 1996 . . . S. 735.
Hatch/Dole motion to table the Biden motion to recommit with instructions.

ACTION: MOTION TO TABLE MOTION TO RECOMMIT AGREED TO, 58-40

SYNOPSIS: The conference report to accompany S. 735, the Terrorism Prevention Act, will enact law enforcement provisions to prevent terrorism and to apprehend and punish terrorists, and will reform Federal and State capital and noncapital habeas corpus procedures.

The Biden motion to recommit with instructions would direct Senate conferees to insist on the adoption of the provision from the Senate-passed bill allowing the Justice Department to use multipoint wiretaps in specific circumstances. Under that authority, if the Attorney General, Deputy Attorney General, or head of the Criminal Division is able to convince a judge that a specific person is committing a crime for which wiretaps may be ordered and is using different phones to avoid being tapped, then the judge may grant wiretap authority for two or more specific phones that law enforcement officials believe the person will use. The authority will only apply when law enforcement authorities believe the phone is in use by the person for an illegal purpose.

Debate was limited by unanimous consent. Following debate, Senator Hatch, for himself and Senator Dole, moved to table the Biden motion. Generally, those favoring the motion to table opposed the motion to recommit; those opposing the motion to table favored the motion to recommit.

Those favoring the motion to table the motion to recommit contended:

The Chairman of the Judiciary Committee, Senator Hatch, authored the multipoint wiretap language that was in the Senate-passed bill. We favor that language. As our colleagues know, though, many House Members are concerned that the proposed new wiretap authority will be used to infringe severely on Americans' constitutional liberties. Though we argued strongly in conference for retention of the Senate language, our House colleagues refused to accept it. They said they wanted proof that this authority was

(See other side)

YEAS (58)			NAYS (40)		NOT VOTING (2)	
Republicans (52 or 100%)	Democrats (6 or 13%)		Republicans (0 or 0%)	Democrats (40 or 87%)	Republicans (1)	Democrats (1)
Abraham	Helms	Bryan		Akaka	Mack- ²	Breaux- ²
Ashcroft	Hutchison	Dorgan		Baucus		
Bennett	Inhofe	Feingold		Biden		
Bond	Jeffords	Reid		Bingaman		
Brown	Kassebaum	Simon		Boxer		
Burns	Kempthorne	Wellstone		Bradley		
Campbell	Kyl			Bumpers		
Chafee	Lott			Byrd		
Coats	Lugar			Conrad		
Cochran	McCain			Daschle		
Cohen	McConnell			Dodd		
Coverdell	Murkowski			Exon		
Craig	Nickles			Feinstein		
D'Amato	Pressler			Ford		
DeWine	Roth			Glenn		
Dole	Santorum			Graham		
Domenici	Shelby			Harkin		
Faircloth	Simpson			Heflin		
Frist	Smith			Hollings		
Gorton	Snowe			Inouye		
Gramm	Specter					
Grams	Stevens					
Grassley	Thomas					
Gregg	Thompson					
Hatch	Thurmond					
Hatfield	Warner					

EXPLANATION OF ABSENCE:

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

needed and would not be abused before they would grant it. We then proposed as an alternative a study of electronics communications interceptions, and our House colleagues assented. It is our expectation that the results of that study will prove that we should provide multipoint wiretap authority in the carefully defined manner as proposed by the Senate. For now, though, insisting on the adoption of this language will only kill this bill, because the House will not accept it. We will work with our colleagues to pass multi-point wiretap authority in the future, but we must vote to table their motion now.

Those opposing the motion to table the motion to recommit contended:

We are afraid that a strange marriage of far-left and far-right House Members who fear and distrust Federal law enforcement officials has caused the House to oppose one of the most important elements of this terrorism bill, multipoint wiretap authority. The problem started when an unfortunate term, "roving wiretaps," was originally used to describe this authority. This term caused many Members to believe that we were asking them to give police wide discretion to eavesdrop on virtually any phone they wished. Very liberal House Democrats and very conservative House Republicans who share a distrust of the Government were immediately up in arms due to their misunderstanding of the very limited scope of multipoint wiretaps.

The fact that a few House Members who do not trust law enforcement officials misunderstand multipoint wiretaps should not stop us from passing this provision to combat terrorism. We cannot simply rely on strong criminal penalties to deter terrorist attacks, because many terrorists are fanatics who will gladly sacrifice their lives for their bizarre beliefs. Neither can we simply rely on building defenses against terrorist attacks. We do not have the resources to protect everything, yet everything is a target. Terrorists do not go after protected targets; they attack stores, schools, hospitals, churches, and other places where civilian populations ordinarily feel safe. Their purpose, after all, is to cause terror.

The most effective means that has been found to stop terrorist organizations is to infiltrate them in order to stop attacks before they occur. Wiretap authority has been very useful in these infiltration efforts. Now, though, advances in technology have made it easier for terrorists and other criminals to avoid wiretaps. A criminal need only buy a new cellular phone daily to guarantee that the Government will never be able to have a current wiretap on him.

The Senate-passed bill provided law enforcement agencies the increased surveillance authority they need as a result of the technological advances that have made it easier for criminals to escape scrutiny. Our House colleagues do not want to give that authority, and the result will be that law enforcement agencies' ability to stop terrorist attacks before they occur will be severely hampered. We should not allow that result. We should pass the Biden motion, to insist that the House accept the Senate's provisions.